IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5938 OF 2005

1. Dattatray Dhondiba Mhangore
2. Mrs. Fulatai @ Vidya Dattatray Mhangore ...Applicants

Vs.

The State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO.5948 OF 2005

1. Sattappa Dhondiba Mhangore
2. Kum.Narmada Pandurang Kudale ...Applicants

Vs.

The State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO.5949 OF 2005

Jaywant Sattappa Mhangore ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. M.A. Chaudhari with Mr. Prakash K. Deshmukh for the Applicants in all Criminal Applications.
Ms Rajeshree Gadhvi, A.P.P. for the State in all Criminal Applications.
Mr. I.M. Khairdi for the complainant.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 21, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State. I have also heard Shri. Khairdi appearing for the first informant.

2. The learned Advocate appearing for the Applicants in these Applications submitted that there is a dispute between two groups as regards immoveable

property and there are cross complaints registered by both the sides. He submitted that the F.I.R. has been registered under political pressure. He stated that there is over-writing in the time of incident in the F.I.R. He submitted that the Applicant No.1 in the Criminal Application No.5938 of 2005 was not present at the spot of the incident as reflected from the documents annexed to the Application. He submitted that the Applicants in the Criminal Application No.5948 of 2005 are teachers employed with Zilla Parishad. He submitted that the Applicant in Criminal Application No.5949 of 2005 is himself seriously injured and has undergone hospitalisation. He submitted that he suffered an injury to the brain.

3. The learned A.P.P. has brought to my attention to the material collected during the investigation and has opposed the prayer made by the Applicants. Shri. Khairdi appearing for the first informant/original complainant has invited my attention to the affidavit filed on record and submitted that clear role has been ascribed to the Applicants requiring custodial interrogation.

4. I have considered the submissions. In Criminal Application No.5938 of 2005 the specific allegation of assault is only against the Applicant No.1 who has allegedly assaulted one Bharat by a

weapon. The injury certificate shows there are three simple injuries on the person of the said Bharat. The allegation of the Complainant is that the Applicant No.1 was carrying a sharp object. There is only one injury which is of simple nature caused to Bharat by a sharp object. That injury is to left thumb. The other two injuries are caused by hard and blunt object. As against the Applicant No.2 there is no specific allegation of assault and all that is stated is that women present on the spot pelted stones.

5. In Criminal Application No.5948 of 2005, the specific allegation against the Applicant No.1 is that he was carrying a stick. Only a general allegation is made against the Applicant No.2 that she alongwith other women present pelted stones. So far as the Applicant in Criminal Application No.5949 of 2005 is concerned, it is alleged that he himself has to undergo hospitalisation as he was injured. The allegation against the said Applicant is that he assaulted the first informant by stick on his back. There is nothing on record to show that any injury was caused by the said Applicant.

6. It is obvious that there are cross complaints between the parties and the dispute seems to be over immoveable property. From the prosecution case, it appears that the allegations against none of the

Applicants is of grave nature requiring custodial interrogation. Hence, it is obvious that undue harrasment will be caused to the Applicants in case of their arrest.

7. Hence, Applications are allowed. Accordingly, I pass the following order:

: O R D E R :

i) In the event of the arrest of the Applicants in Criminal Application Nos.5938 of 2005, 5948 of 2005 and 5949 of 2005 in connection with **C.R.No.41 of 2005 registered with Bhudargad Police Station, District Kolhapur, the Applicants shall be enlarged on bail** subject to furnishing P.R.Bond in the sum **of Rs.5,000/- each with one or two sureties each** in the like amount.

ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so and will co-operate for the purposes of the investigation till the chargesheet is filed.

iii) The Bail is granted subject to condition that the Applicants shall not, direclty or indirectly, make any inducement, threat or promise to any person

acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investiating Agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till chargesheet is filed. Thereafter, they will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE